

# Wyoming Board of Medicine

*Serving the public and practitioners since 1905*



**Diane Noton-Coale, MD**  
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**Jeffrey D. Storey, MD**  
*Vice President*

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**David M. Skolnick, DO**

**Kevin D. Bohnenblust**  
*Executive Director*  
**Kennard F. Nelson**  
*Senior Assistant Attorney General*  
*Board Counsel*  
**Bill G. Hibbler**  
*Special Assistant Attorney General*  
*Board Prosecutor*

**Matthew H. Mead**  
Governor

May 9, 2012

## ***Via Hand Delivery***

Hon. Nancy D. Freudenthal  
Chief Judge  
U.S. District Court – District of Wyoming  
2120 Capitol Avenue  
Cheyenne, WY 82001

RE: **Request to Release Transcript of April 26, 2012, Hearing**  
***Biles v. Fallon – 11-CV-294F***  
***Biles v. Schneider, et al. – 11-CV-366F***

Dear Judge Freudenthal:

As you know, the Wyoming Board of Medicine became involved in the captioned matters when counsel for John H. Schneider, Jr., M.D., served a subpoena on the Board for any and all complaints filed against Jimmie G. Biles, Jr., M.D. The Court issued its ORDER REQUIRING PRODUCTION OF AFFIDAVIT to the Board on March 19, 2012, and the Board subsequently complied with an Affidavit signed by me.

Separate from the captioned litigation, the Board of Medicine has had the mass mailing at question under investigation since early 2011. While we have been unable to positively confirm the involvement of any of the Board's licensees thus far, the investigation remains active. Accordingly, the Board staff has been closely monitoring the pleadings and progress in the cases before the Court.

The Board office learned from a report in the Powell Tribune dated May 1, 2012, that counsel for Dr. Schneider had requested permission to withdraw from the case, citing a need to make disclosure to the Court, under WYOMING RULES OF PROFESSIONAL CONDUCT § 3.3(b) and (c), of their clients' possible misconduct in relation to the cases at bar.

Because the facts underlying the captioned cases are integral to the Board's investigation of the mass mailing, the Board would have sought to attend the hearing held on April 26, 2012. Unfortunately, while the notice dated April 25, 2012, does not indicate that the hearing was to be closed, because the Board is not a party to these cases, we were unaware of the hearing until after it occurred.

Hon. Nancy D. Freudenthal  
May 9, 2012  
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Subsequently, we learned of the Court's ORDER STAYING CASE in which you gave the parties to both cases until May 10, 2012, to file briefs regarding whether the Court should file the transcript of the April 26<sup>th</sup> hearing with the United States Attorney's Office for investigation and, presumably, possible prosecution.

Since we learned of the April 26<sup>th</sup> hearing and the Court's ORDER STAYING CASE, we have attempted to retrieve from PACER a copy of the transcript of what we can only assume was an open hearing. To date, we have been unsuccessful because the transcript has not been posted to PACER.

Although the Wyoming Board of Medicine is not a party to these cases, the underlying facts are highly relevant to the Board's investigation into whether the Wyoming Medical Practice Act has been violated by one or more of the Board's licensees. Additionally, although the Board of Medicine is not a party to these cases, the defendants in *Biles v. Schneider* chose to involve the Board in them by issuing a subpoena for confidential Board records. **Therefore, the Board respectfully requests that the transcript of what we understand was an open hearing before the Court on April 26<sup>th</sup>, along with any supporting materials submitted by the parties and reviewed by the Court in issuing its ORDER STAYING CASE, be released and made available to the Board in furtherance of its investigation, by whatever means the Court deems appropriate.**

The Wyoming Board of Medicine thanks you in advance for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin D. Bohnenblust", written in a cursive style.

Kevin D. Bohnenblust  
Executive Director

Cc: M. Kristeen Hand, Esq. – 307-733-5248  
R. Daniel Fleck, Esq. – 307-733-5248  
William L. Simpson, Esq. – 307-527-7897  
P. Craig Silva, Esq. – 307-266-2306  
Laurence W. Stinson, Esq. – 307-527-6092  
Bradley D. Bonner, Esq. – 307-527-6092  
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May 10, 2012

## ***Via Hand Delivery***

Hon. Nancy D. Freudenthal  
Chief Judge  
U.S. District Court – District of Wyoming  
2120 Capitol Avenue  
Cheyenne, WY 82001

RE: **Opposition to Sealing of Case Files**  
*Biles v. Fallon – 11-CV-294F*  
*Biles v. Schneider, et al. – 11-CV-366F*

Dear Judge Freudenthal:

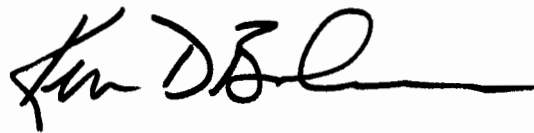
It has come to the attention of the Wyoming Board of Medicine that the captioned cases have been settled, and there is a pending motion to seal part or all of the record of both cases. We further understand that a Status Conference is set for this case for Friday, May 11, 2012, at 8:00 a.m. **I respectfully request an opportunity to address the Court to express the Board of Medicine's strong opposition to any effort to seal the record of these cases.**

As noted in my letter of May 9, 2012, the Board has an ongoing investigation into the flyers that were the basis of the captioned cases, as well as several other matters involving a Defendant who is also a licensee of the Board and is subject to the disciplinary jurisdiction of the Board.

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May 10, 2012  
Page 2 of 2

The information in these case files likely has direct and immediate bearing on the investigations being conducted by the Board of Medicine. **Therefore, I respectfully request the opportunity to address the Court on this important matter in the course of its Status Conference tomorrow.**

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin D. Bohnenblust', with a long horizontal flourish extending to the right.

Kevin D. Bohnenblust  
Executive Director

Cc: M. Kristeen Hand, Esq. – 307-733-5248  
R. Daniel Fleck, Esq. – 307-733-5248  
William L. Simpson, Esq. – 307-527-7897  
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Kennard F. Nelson, Esq. – 307-777-3687  
Bill G. Hibbler, Esq. – 307-632-3886  
W. W. Reeves, Esq. – 307-235-0243  
Ericka S. Smith, Esq. – 307-635-4502  
Corinne E. Rutledge, Esq. – 307-635-4502

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**FROM THE DESK OF:  
ERICKA S. SMITH  
ESMITH@LR-LAW.ORG**

May 10, 2012

### **Via Hand Delivery**

Honorable Nancy D. Freudenthal, Chief Judge  
United States District Court – District of Wyoming  
2120 Capitol Avenue  
Cheyenne, WY 82001

**RE: Jimmie G. Biles, Jr., M.D. vs. Lisa S. Fallon; John H. Schneider, Jr., M.D.;  
Michelle Schneider – 2:11-cv-00294-NDF; Request for Transcript  
April 26, 2012 Hearing**

Dear Judge Freudenthal:

Please consider this a formal request for a copy of the transcript of the hearing held on April 26, 2012 which resulted in the Court's Order Staying Case on the same day.

Lathrop & Rutledge, P.C. represents West Park Hospital on several matters regarding John H. Schneider, Jr., M.D., including responding to subpoenas issued by both parties in the case at hand. Without discussing the breadth of our representation and potentially revealing protected attorney-client information, I can disclose to the Court that Dr. Schneider has medical surgical privileges at West Park Hospital in Cody, Wyoming. Our By-Laws require that all members of the medical staff be competent in their respective fields, worthy in character and professional ethics and conduct. In addition, privileges can be withdrawn from a member of the medical staff for various activities, but including unethical practices and violations of law.

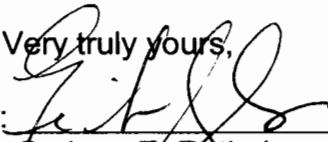
In your Order Staying Case on April 26, 2012, the Court indicated that counsel for Dr. Schneider gave information which required them to ask the Court for leave to withdraw as counsel for Dr. and Mrs. Schneider, citing the Rules of Professional Conduct 3.3 (b) and (c), and additionally made reference to releasing the transcript on May 11, 2012 to the United States Attorney's Office. As you can imagine, as West Park Hospital's counsel we are very concerned about the nature and content of the hearing that resulted in your Order. West Park Hospital first and foremost cares about providing quality patient care to all who need care, and we expect our medical staff to be competent



*Honorable Nancy D. Freudenthal, Chief Judge*  
*May 10, 2012*  
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and conduct themselves with the highest ethical standards and morality including honesty, candor and integrity; therefore, we have a vested interest in having an understanding of what brought about the need to stay the matter so that counsel could withdraw. Furthermore, our medical executive committees have a duty to investigate any claims of criminal and other inappropriate conduct and, therefore, we are certainly concerned about potential criminal activity that warrants reporting to the U.S. Attorney's Office.

Therefore, we respectfully request a copy of the transcript. Please contact me with any questions or concerns.

Very truly yours,  
  
By: \_\_\_\_\_  
Corinne E. Rutledge  
Ericka S. Smith

cc: Dan Fleck  
Craig Silva  
Brad Bonner & Lawrence Stinson  
Doug McMillan, CEO, West Park Hospital